

“(6) be renewable.

“(e) JURISDICTION.—

“(1) IN GENERAL.—The United States district courts shall have exclusive jurisdiction over any civil action against a State for failure to carry out any responsibility of the State under this section.

“(2) LEGAL STANDARDS AND REQUIREMENTS.—A civil action under paragraph (1) shall be governed by the legal standards and requirements that would apply in such a civil action against the head of a Federal agency had the head of the Federal agency taken the actions in question.

“(3) INTERVENTION.—The head of a Federal agency shall have the right to intervene in any action described in paragraph (1).

“(f) EFFECT OF ASSUMPTION OF RESPONSIBILITY.—A State that assumes responsibility under subsection (b)(2) shall be solely responsible and solely liable for carrying out, in lieu of and without further approval of the head of the Federal agency, the responsibilities assumed under subsection (b)(2), until the agency program is terminated under subsection (k).

“(g) LIMITATIONS ON AGREEMENTS.—Nothing in this section permits a State to assume any rulemaking authority of the head of a Federal agency under any Federal law.

“(h) AUDITS.—

“(1) IN GENERAL.—To ensure compliance by a State with any agreement of the State under subsection (d) (including compliance by the State with all Federal laws for which responsibility is assumed under subsection (b)(2)), for each State participating in an agency program, the head of a Federal agency shall—

“(A) not later than 180 days after the date of execution of the agreement, meet with the State to review implementation of the agreement and discuss plans for the first annual audit;

“(B) conduct annual audits during each of the first 4 years of State participation; and

“(C) ensure that the time period for completing an annual audit, from initiation to completion (including public comment and responses to those comments), does not exceed 180 days.

“(2) PUBLIC AVAILABILITY AND COMMENT.—

“(A) IN GENERAL.—An audit conducted under paragraph (1) shall be provided to the public for comment.

“(B) RESPONSE.—Not later than 60 days after the date on which the period for public comment ends, the head of the Federal agency shall respond to public comments received under subparagraph (A).

“(3) AUDIT TEAM.—

“(A) IN GENERAL.—An audit conducted under paragraph (1) shall be carried out by an audit team determined by the head of the Federal agency, in consultation with the State, in accordance with subparagraph (B).

“(B) CONSULTATION.—Consultation with the State under subparagraph (A) shall include a reasonable opportunity for the State to review and provide comments on the proposed members of the audit team.

“(i) MONITORING.—After the fourth year of the participation of a State in an agency program, the head of the Federal agency shall monitor compliance by the State with the written agreement, including the provision by the State of financial resources to carry out the written agreement.

“(j) REPORT TO CONGRESS.—The head of each Federal agency shall submit to Congress an annual report that describes the administration of the agency program.

“(k) TERMINATION.—

“(1) TERMINATION BY FEDERAL AGENCY.—The head of a Federal agency may terminate the participation of any State in the agency program of the Federal agency if—

“(A) the head of the Federal agency determines that the State is not adequately car-

rying out the responsibilities assigned to the State;

“(B) the head of the Federal agency provides to the State—

“(i) a notification of the determination of noncompliance;

“(ii) a period of not less than 120 days to take such corrective action as the head of the Federal agency determines to be necessary to comply with the applicable agreement; and

“(iii) on request of the Governor of the State, a detailed description of each responsibility in need of corrective action regarding an inadequacy identified under subparagraph (A); and

“(C) the State, after the notification and period provided under subparagraph (B), fails to take satisfactory corrective action, as determined by the head of the Federal agency.

“(2) TERMINATION BY THE STATE.—A State may terminate the participation of the State in an agency program at any time by providing to the head of the applicable Federal agency a notice by not later than the date that is 90 days before the date of termination, and subject to such terms and conditions as the head of the Federal agency may provide.

“(1) CAPACITY BUILDING.—The head of a Federal agency, in cooperation with representatives of State officials, may carry out education, training, peer-exchange, and other initiatives as appropriate—

“(1) to assist States in developing the capacity to participate in the agency program of the Federal agency; and

“(2) to promote information sharing and collaboration among States that are participating in the agency program of the Federal agency.

“(m) RELATIONSHIP TO LOCALLY ADMINISTERED PROJECTS.—A State granted authority under an agency program may, as appropriate and at the request of a local government—

“(1) exercise that authority on behalf of the local government for a locally administered project; or

“(2) provide guidance and training on consolidating and minimizing the documentation and environmental analyses necessary for sponsors of a locally administered project to comply with this title and any comparable requirements under State law.”.

(b) CONFORMING AMENDMENT.—Section 327 of title 23, United States Code, is amended—

(1) in subsection (a)(1), by striking “The Secretary” and inserting “Subject to subsection (m), the Secretary”; and

(2) by adding at the end the following:

“(m) SUNSET.—

“(1) IN GENERAL.—Except as provided under paragraph (2), the authority provided by this section terminates on the date of enactment of this subsection.

“(2) EXISTING AGREEMENTS.—Subject to the requirements of this section, the Secretary may continue to enforce any agreement entered into under this section before the date of enactment of this subsection.”.

SA 2251. Mr. LEE submitted an amendment intended to be proposed to amendment SA 2137 proposed by Mr. SCHUMER (for Ms. SINEMA (for herself, Mr. PORTMAN, Mr. MANCHIN, Mr. CASSIDY, Mrs. SHAHEEN, Ms. COLLINS, Mr. TESTER, Ms. MURKOWSKI, Mr. WARNER, and Mr. ROMNEY)) to the bill H.R. 3684, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

DIVISION —NATIONAL ENVIRONMENTAL POLICY ACT TIMELINES **SEC. ____ . NATIONAL ENVIRONMENTAL POLICY ACT TIMELINES.**

Title I of the National Environmental Policy Act of 1969 is amended—

(1) by redesignating section 105 (42 U.S.C. 4335) as section 106; and

(2) by inserting after section 104 (42 U.S.C. 4334) the following:

“SEC. 105. APPLICABLE TIMELINES.

“(a) DEFINITIONS.—In this section:

“(1) ENVIRONMENTAL IMPACT STATEMENT.—The term ‘environmental impact statement’ means a detailed statement required under section 102(2)(C).

“(2) FEDERAL AGENCY.—The term ‘Federal agency’ includes a State that has assumed responsibility under section 327 of title 23, United States Code.

“(3) HEAD OF A FEDERAL AGENCY.—The term ‘head of a Federal agency’ includes the governor or head of an applicable State agency of a State that has assumed responsibility under section 327 of title 23, United States Code.

“(4) NEPA PROCESS.—

“(A) IN GENERAL.—The term ‘NEPA process’ means the entirety of every process, analysis, or other measure, including an environmental impact statement, required to be carried out by a Federal agency under this title before the agency undertakes a proposed action.

“(B) PERIOD.—For purposes of subparagraph (A), the NEPA process—

“(i) begins on the date on which the head of a Federal agency receives an application for a proposed action from a project sponsor; and

“(ii) ends on the date on which the Federal agency issues, with respect to the proposed action—

“(I) a record of decision, including, if necessary, a revised record of decision;

“(II) a finding of no significant impact; or

“(III) a categorical exclusion under this title.

“(5) PROJECT SPONSOR.—The term ‘project sponsor’ means a Federal agency or other entity, including a private or public-private entity, that seeks approval of a proposed action.

“(b) APPLICABLE TIMELINES.—

“(1) NEPA PROCESS.—

“(A) IN GENERAL.—The head of a Federal agency shall complete the NEPA process for a proposed action of the Federal agency, as described in subsection (a)(4)(B)(ii), not later than 2 years after the date described in subsection (a)(4)(B)(i).

“(B) ENVIRONMENTAL DOCUMENTS.—Within the period described in subparagraph (A), not later than 1 year after the date described in subsection (a)(4)(B)(i), the head of the Federal agency shall, with respect to the proposed action—

“(i) issue—

“(I) a finding that a categorical exclusion applies to the proposed action; or

“(II) a finding of no significant impact; or

“(ii) publish a notice of intent to prepare an environmental impact statement in the Federal Register.

“(C) ENVIRONMENTAL IMPACT STATEMENT.—If the head of a Federal agency publishes a notice of intent described in subparagraph (B)(ii), within the period described in subparagraph (A) and not later than 1 year after the date on which the head of the Federal agency publishes the notice of intent, the head of the Federal agency shall complete the environmental impact statement and, if necessary, any supplemental environmental impact statement for the proposed action.

“(D) PENALTIES.—

“(i) DEFINITIONS.—In this subparagraph:

“(I) DIRECTOR.—The term ‘Director’ means the Director of the Office of Management and Budget.

“(II) FEDERAL AGENCY.—The term ‘Federal agency’ does not include a State.

“(III) FINAL NEPA COMPLIANCE DATE.—The term ‘final NEPA compliance date’, with respect to a proposed action, means the date by which the head of a Federal agency is required to complete the NEPA process under subparagraph (A).

“(IV) HEAD OF A FEDERAL AGENCY.—The term ‘head of a Federal agency’ does not include the governor or head of a State agency of a State.

“(V) INITIAL EIS COMPLIANCE DATE.—The term ‘initial EIS compliance date’, with respect to a proposed action for which a Federal agency published a notice of intent described in subparagraph (B)(ii), means the date by which an environmental impact statement for that proposed action is required to be completed under subparagraph (C).

“(VI) INITIAL NEPA COMPLIANCE DATE.—The term ‘initial NEPA compliance date’, with respect to a proposed action, means the date by which the head of a Federal agency is required to issue or publish a document described in subparagraph (B) for that proposed action under that subparagraph.

“(VII) INITIAL NONCOMPLIANCE DETERMINATION.—The term ‘initial noncompliance determination’ means a determination under clause (ii)(I)(bb) that the head of a Federal agency has not complied with the requirements of subparagraph (A), (B), or (C).

“(ii) INITIAL NONCOMPLIANCE.—

“(I) DETERMINATION.—

“(aa) NOTIFICATION.—As soon as practicable after the date described in subsection (a)(4)(B)(i) for a proposed action of a Federal agency, the head of the Federal agency shall notify the Director that the head of the Federal agency is beginning the NEPA process for that proposed action.

“(bb) DETERMINATIONS OF COMPLIANCE.—

“(AA) INITIAL DETERMINATION.—As soon as practicable after the initial NEPA compliance date for a proposed action, the Director shall determine whether, as of the initial NEPA compliance date, the head of the Federal agency has complied with subparagraph (B) for that proposed action.

“(BB) ENVIRONMENTAL IMPACT STATEMENT.—With respect to a proposed action of a Federal agency in which the head of the Federal agency publishes a notice of intent described in subparagraph (B)(ii), as soon as practicable after the initial EIS compliance date for a proposed action, the Director shall determine whether, as of the initial EIS compliance date, the head of the Federal agency has complied with subparagraph (C) for that proposed action.

“(CC) COMPLETION OF NEPA PROCESS.—As soon as practicable after the final NEPA compliance date for a proposed action, the Director shall determine whether, as of the final NEPA compliance date, the head of the Federal agency has complied with subparagraph (A) for that proposed action.

“(II) IDENTIFICATION; PENALTY; NOTIFICATION.—If the Director makes an initial noncompliance determination for a proposed action—

“(aa) the Director shall identify the account for the salaries and expenses of the office of the head of the Federal agency, or an equivalent account;

“(bb) beginning on the day after the date on which the Director makes the initial noncompliance determination, the amount that the head of the Federal agency may obligate from the account identified under item (aa) for the fiscal year during which the determination is made shall be reduced by 0.5 per-

cent from the amount initially made available for the account for that fiscal year; and

“(cc) the Director shall notify the head of the Federal agency of—

“(AA) the initial noncompliance determination;

“(BB) the account identified under item (aa); and

“(CC) the reduction under item (bb).

“(iii) CONTINUED NONCOMPLIANCE.—

“(I) DETERMINATION.—Every 90 days after the date of an initial noncompliance determination, the Director shall determine whether the head of the Federal agency has complied with the applicable requirements of subparagraphs (A) through (C) for the proposed action, until the date on which the Director determines that the head of the Federal agency has completed the NEPA process for the proposed action.

“(II) PENALTY; NOTIFICATION.—For each determination made by the Director under subclause (I) that the head of a Federal agency has not complied with a requirement of subparagraph (A), (B), or (C) for a proposed action—

“(aa) the amount that the head of the Federal agency may obligate from the account identified under clause (ii)(I)(aa) for the fiscal year during which the most recent determination under subclause (I) is made shall be reduced by 0.5 percent from the amount initially made available for the account for that fiscal year; and

“(bb) the Director shall notify the head of the Federal agency of—

“(AA) the determination under subclause (I); and

“(BB) the reduction under item (aa).

“(iv) REQUIREMENTS.—

“(I) AMOUNTS NOT RESTORED.—A reduction in the amount that the head of a Federal agency may obligate under clause (ii)(I)(bb) or (iii)(I)(aa) during a fiscal year shall not be restored for that fiscal year, without regard to whether the head of a Federal agency completes the NEPA process for the proposed action with respect to which the Director made an initial noncompliance determination or a determination under clause (iii)(I).

“(II) REQUIRED TIMELINES.—The violation of subparagraph (B) or (C), and any action carried out to remediate or otherwise address the violation, shall not affect any other applicable compliance date under subparagraph (A), (B), or (C).

“(2) AUTHORIZATIONS AND PERMITS.—

“(A) IN GENERAL.—Not later than 90 days after the date described in subsection (a)(4)(B)(ii), the head of a Federal agency shall issue—

“(i) any necessary permit or authorization to carry out the proposed action; or

“(ii) a denial of the permit or authorization necessary to carry out the proposed action.

“(B) EFFECT OF FAILURE TO ISSUE AUTHORIZATION OR PERMIT.—If a permit or authorization described in subparagraph (A) is not issued or denied within the period described in that subparagraph, the permit or authorization shall be considered to be approved.

“(C) DENIAL OF PERMIT OR AUTHORIZATION.—

“(i) IN GENERAL.—If a permit or authorization described in subparagraph (A) is denied, the head of the Federal agency shall describe to the project sponsor—

“(I) the basis of the denial; and

“(II) recommendations for the project sponsor with respect to how to address the reasons for the denial.

“(ii) RECOMMENDED CHANGES.—If the project sponsor carries out the recommendations of the head of the Federal agency under clause (i)(II) and notifies the head of the Federal agency that the recommendations have been carried out, the head of the Federal agency—

“(I) shall decide whether to issue the permit or authorization described in subparagraph (A) not later than 90 days after date on which the project sponsor submitted the notification; and

“(II) shall not carry out the NEPA process with respect to the proposed action again.”.

SA 2252. Mr. LEE submitted an amendment intended to be proposed to amendment SA 2137 proposed by Mr. SCHUMER (for Ms. SINEMA (for herself, Mr. PORTMAN, Mr. MANCHIN, Mr. CASSIDY, Mrs. SHAHEEN, Ms. COLLINS, Mr. TESTER, Ms. MURKOWSKI, Mr. WARNER, and Mr. ROMNEY)) to the bill H.R. 3684, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

DIVISION —AGENCY PROCESS REFORMS UNDER THE NATIONAL ENVIRONMENTAL POLICY ACT

SEC. —. AGENCY PROCESS REFORMS UNDER NEPA.

Title I of the National Environmental Policy Act of 1969 is amended—

(1) by redesignating section 105 (42 U.S.C. 4335) as section 106; and

(2) by inserting after section 104 (42 U.S.C. 4334) the following:

“SEC. 105. AGENCY PROCESS REFORMS.

“(a) DEFINITIONS.—In this section:

“(1) ENVIRONMENTAL ASSESSMENT.—The term ‘environmental assessment’ has the meaning given the term in section 1508.1 of title 40, Code of Federal Regulations (or a successor regulation).

“(2) ENVIRONMENTAL IMPACT STATEMENT.—The term ‘environmental impact statement’ means a detailed statement required under section 102(2)(C).

“(3) FEDERAL AGENCY.—The term ‘Federal agency’ includes a State that has assumed responsibility under section 327 of title 23, United States Code.

“(4) HEAD OF A FEDERAL AGENCY.—The term ‘head of a Federal agency’ includes the governor or head of an applicable State agency of a State that has assumed responsibility under section 327 of title 23, United States Code.

“(5) NEPA PROCESS.—

“(A) IN GENERAL.—The term ‘NEPA process’ means the entirety of every process, analysis, or other measure, including an environmental impact statement, required to be carried out by a Federal agency under this title before the agency undertakes a proposed action.

“(B) PERIOD.—For purposes of subparagraph (A), the NEPA process—

“(i) begins on the date on which the head of a Federal agency receives an application for a proposed action from a project sponsor; and

“(ii) ends on the date on which the Federal agency issues, with respect to the proposed action—

“(I) a record of decision, including, if necessary, a revised record of decision;

“(II) a finding of no significant impact; or

“(III) a categorical exclusion under this title.

“(6) PROJECT SPONSOR.—The term ‘project sponsor’ means a Federal agency or other entity, including a private or public-private entity, that seeks approval of a proposed action.

“(b) PROHIBITIONS.—In carrying out the NEPA process, the head of a Federal agency may not—